

**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of	)	
Telecommunications Carriers Eligible to Receive	)	
Universal Service Support	)	WC Docket No. 09-197
	)	
Petition for Designation as an Eligible	)	
Telecommunications Carrier Pursuant to	)	
Section 214(e)(6) of the Act.	)	

**PETITION FOR DESIGNATION OF  
NORTHERN ARAPAHO TRIBAL INDUSTRIES, INC. d/b/a WIND RIVER INTERNET  
AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER**

**I. Introduction and Background**

Northern Arapaho Tribal Industries, Inc. (“NATI”) d/b/a Wind River Internet (“WRI” or the “Company”), a winning bidder in the Connect America Fund Phase II auction,<sup>1</sup> pursuant to Section 214(e)(6) of the Communications Act of 1934, as amended,<sup>2</sup> and Section 54.201(d) of the Commission’s Rules,<sup>3</sup> petitions the Federal Communications Commission (“Commission”) for it to be designated as an Eligible Telecommunications Carrier (“ETC”) within the boundaries of the Wind River Indian Reservation in Wyoming. WRI is a wholly-owned telecommunications and broadband provider chartered by a sovereign, Federally Recognized Tribe, the Northern

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<sup>1</sup> On August 28, 2018, NATI was named a winning bidder in Auction 903, the Commission’s Connect America Fund Phase II Auction. *Connect America Fund Phase II Auction (Auction 903) Closes, Winning Bidders Announced, FCC Form 683 Due October 15, 2018*, Public Notice, Docket Nos. AU 17-182 and WC 10-90 (Rel. August 28, 2018)(“*Auction 903 Closing Public Notice*”), Attachment A at 7. Accordingly, NATI is filing this Petition for designation as an ETC. Although NATI is the legal entity that is the winning bidder, Wind River Internet is used throughout this Petition, since that is the name of its telecommunications and broadband services operating entity provider.

<sup>2</sup> 47 U.S.C. § 214(e)(6) (“Section 214(e)(6)”).

<sup>3</sup> 47 CFR § 54.201(d).

Arapaho Tribe of the Wind River Indian Reservation.<sup>4</sup> The Wind River Indian Reservation in western, central Wyoming has historically been the 7<sup>th</sup> largest Indian Reservation by area, and has the 5<sup>th</sup> largest population where members of the Eastern Shoshone and Northern Arapaho Tribes currently live.<sup>5</sup> According to the 2010 U.S. Census, only 26,490 people live on the Reservation, so it is quite rural and sparsely populated given its size.<sup>6</sup> WRI<sup>7</sup> currently provides fixed wireless voice services to approximately 800 customers and Internet service to approximately 600 customers within the Wind River Indian Reservation, which coincides with portions of Fremont County and Hot Springs County in Wyoming.

One of the requirements of the Connect America Fund Phase II Program (“CAF Phase II”) is that successful bidders must submit to the Commission proof of their ETC designation in all supported areas within 180 days of the Commission’s August 28, 2018 announcement of winning bids.<sup>8</sup> Because Wind River Internet, a Tribally-owned carrier, is seeking FCC ETC designation to serve Tribal lands within the federally-recognized Wind River Reservation, as discussed in this Petition, the Commission has jurisdiction of this petition.<sup>9</sup> WRI intends to

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<sup>4</sup> *Indian Entities Recognized and Eligible To Receive Services From the United States Bureau of Indian Affairs*, Bureau of Indian Affairs, U.S. Department of the Interior, 82 FR 4915 (Jan. 17, 2017).

<sup>5</sup> <https://www.worldatlas.com/articles/biggest-indian-reservations-in-the-united-states.html>

<sup>6</sup> See, National Congress of American Indians report, “NCAI Rocky Mountain Region” at [http://www.ncai.org/policy-research-center/research-data/prc-publications/Rocky\\_Mountain\\_Region.pdf](http://www.ncai.org/policy-research-center/research-data/prc-publications/Rocky_Mountain_Region.pdf)

<sup>7</sup> See, <http://windriverinternet.com>.

<sup>8</sup> Public Notice, “WCB Reminds Connect America Fund Phase III Auction Applicants of the Process for Obtaining a Federal Designation as an Eligible Telecommunications Carrier”, WC Docket Nos. 09-197, 10-90(July 10, 2018)(“CAF ETC Public Notice”) at 1. WRI is submitting its petition for ETC designation within 30 days of the Commission’s announcement of winning bids in the Connect America Fund Phase II auction on August 28, 2018, both to satisfy the 180 day deadline to obtain ETC designation, and to comply with the Commission’s presumption that an entity has acted in good faith if it files its ETC application “within 30 days” of release of the Public Notice announcing winning bids. *Auction 903 Closing Public Notice* at 12-13, ¶35.

<sup>9</sup> *Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas*, Twelfth Report and Order, Memorandum Opinion and Order, and Notice of Proposed Rulemaking, 15 FCC Rcd 12208, 12261, 12665-69 (2000) (“*Twelfth Report and Order*”); *CAF ETC Public Notice* at 2. The Commission observed that the legislative history of Section 214(e)(6) makes it clear that the class of carriers covered by this provision is “dominated by tribally owned carriers, but not limited to these.” *Twelfth Report and Order*, 15 FCC Rcd at 12665-69. Wind River Internet has not initiated an ETC designation proceeding at any time before the Wyoming Public Service Commission or with any state commission.

provide services as an eligible telecommunications carrier within WRI's service area exclusively within the Wind River Indian Reservation (see attached *Exhibit A*).

As a winning bidder in the CAF Phase II Auction, WRI intends to supplement its current broadband and voice service offerings by deploying a Fiber-to-the-Premises ("FTTP") Internet Protocol ("IP") based network to community anchor institutions, including education and government facilities, and to business and residential end users within 7 Census Block Groups ("CBGs") within its service area. This service area will target underserved areas within the Wind River Reservation, including the entire communities of Arapahoe, Ethete, Fort Washakie, as well as adjacent designated Tribal areas. In 2015, WRI began construction of a middle mile fiber upgrade to replace WRI's existing fixed wireless services. WRI's fiber investments made to date include approximately 28 fiber route miles of middle mile fiber, and 4 fiber route miles of last mile fiber. In total, approximately 5,842 fiber route miles have been deployed by WRI to date.

As a Tribally-owned entity, WRI is subject to the regulatory authority and jurisdiction of the federally recognized Northern Arapaho Tribe of the Wind River Reservation. The Northern Arapaho Tribe, through its governing entity, the Northern Arapaho Business Council ("Tribal Council"), has issued WRI a Certificate of Public Convenience and Necessity ("CPCN") to operate as a telecommunications carrier and broadband provider within the Wind River Reservation. A copy of the Tribal Council Resolution and CPCN are attached as *Exhibit B*.<sup>10</sup> Since WRI is owned by the Tribe, WRI has consulted closely with the Tribal Council regarding WRI's plans to deploy additional telecommunications infrastructure and provide additional

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<sup>10</sup> See, August 30, 2018 Resolution of the Northern Arapaho Business Council, Wind River Indian Reservation, approving the application for a Certificate of Public Convenience and Necessity as a telecommunications carrier of Northern Arapaho Tribal Industries d/b/a Wind River Internet at 2-3. (*Exhibit B*).

telecommunications and broadband services on the Reservation. WRI will continue its coordination with the Tribal Council, and is providing the Tribal Council, and the Eastern Shoshone Business Council of the Wind River Reservation, with a copy of this Petition in accordance with Commission Rules.<sup>11</sup> WRI is not subject to the jurisdiction of the State of Wyoming for its service area within the Wind River Reservation, however it is serving a copy of this petition upon the Wyoming Public Service Commission in accordance with Commission requirements for ETC petitions on Tribal lands.<sup>12</sup> WRI requests that it be designated by the Commission as an eligible telecommunications carrier entitled to receive all available support from the federal Universal Service Fund (“USF”), including, but not limited to, support for service to rural, insular, and high-cost service areas, support to serve low-income customers, E-Rate support (schools and libraries), and those funds available under the Connect America Fund Phase II Reverse Auction (“Auction 903”).<sup>13</sup>

WRI serves the public interest by providing qualifying access to high-speed Internet access and standalone voice telephony services, using its own facilities, to the Wind River Reservation. The Wind River Reservation, situated on the eastern edge of the Rocky Mountain Range, consists of predominantly rural, often mountainous terrain which is sparsely populated, and underserved by modern telecommunications infrastructure that is common elsewhere in the United States. Most areas of the Reservation suffer from significant geographic, demographic and resource impediments to having reliable, affordable, competitive and ubiquitous telecommunications services. Very limited broadband service options currently exist within the WRI service area, which is considered to be an underserved or unserved area, as identified by the

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<sup>11</sup> 47 C.F.R. § 54.202(c).

<sup>12</sup> See, e.g., *CAF ETC Public Notice* at 10.

<sup>13</sup> *Connect America Fund, et al.*, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 5949, 5986, para. 110 (2016) (“*Phase II Auction Order*”).

Commission's own CAF Phase II data identifying census block groups without minimum broadband services. WRI offers a more technologically advanced and reliable network to provide more robust services offerings than the limited or non-existent broadband offerings currently available from the incumbent carrier on the Wind River Reservation. WRI will offer supported service to any requesting customer within its service area, including Lifeline service, and will bid on any request for service from eligible schools and libraries within WRI's service area for supported services under the federal USF's E-Rate program.

WRI respectfully requests that the Commission grant its Petition expeditiously designating it as an Eligible Telecommunications Carrier ("ETC") within the Tribal areas of the Wind River Reservation to enable the Company to receive federal Universal Service cost recovery support, including Connect America Fund Phase II support.<sup>14</sup> In support of this Petition, the Company states the following:

**II. Northern Arapaho Tribal Industries Satisfies All of the Statutory and Regulatory Prerequisites for Designation as an ETC.**

WRI satisfies each of the elements required for ETC designation by the Commission pursuant to Section 214(e)(6).<sup>15</sup> WRI's proposed FTTP services are state-of-the-art technology, offering 1 Gigabit, low-latency FTTP terrestrial broadband services to Wind River residential and business customers rivaling or exceeding that available in many urban areas and the FCC's benchmark standard of 25 Mbps/3 Mbps for broadband services. These services will meet demand for high-quality telecommunications and broadband services in currently unserved or

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<sup>14</sup> Under the requirements of the Connect America Fund Phase II auction, winning bidders are required to obtain ETC designation within 180 days after the Public Notice announcing the winning bidders is released. *Phase II Auction Order*, 31 FCC Rcd 5949, 5999, para. 141 (2016).

<sup>15</sup> *Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Commc'ns Act*, Public Notice 12 FCC Rcd. 22947 (1997) ("Section 214(e)(6) Notice").

underserved areas of the Wind River Indian Reservation. As the Commission has recognized, Tribal areas are among the most unserved areas for broadband services within the United States.<sup>16</sup> The supported services are designed to meet all USF supported services, and WRI satisfies all of the statutory and regulatory requirements for designation as an ETC.

*A. Because WRI is a Tribally-Owned Telecommunications Carrier regulated by the Northern Arapaho Tribe of the Wind River Reservation, it is not subject to the jurisdiction of the Wyoming Public Service Commission.*

Non-tribally owned telecommunications carriers are typically subject to state commission jurisdiction, and states therefore are ordinarily responsible for designating eligible telecommunications carriers and service areas for such carriers. However, Section 214(e)(6) of The Communications Act establishes an important exception to the primary rule: in the case of a common carrier that is not subject to the jurisdiction of a State commission, such as a Tribally owned carrier, the Federal Communications Commission shall, upon request, designate such a common carrier that meets the requirements of Section 214(e)(1)<sup>17</sup> as an eligible telecommunications carrier for a service area designated by the Commission.

In its *Twelfth Report and Order*, the Commission established a framework for the ETC designation process under Section 214(e)(6) for carriers serving Tribal lands.<sup>18</sup> The Commission specifically concluded that a carrier seeking ETC designation on Tribal lands may petition the

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<sup>16</sup> “In the 2015 Broadband Progress Report, the Commission noted that approximately 55 million Americans live in areas unserved by terrestrial-fixed broadband meeting the 25 Mbps/3 Mbps benchmark. In addition, people living in rural and on Tribal lands are disproportionately lacking access to broadband at this increased benchmark speed. More recent data shows that 25 Mbps/3 Mbps is available to 92 percent of Americans living in urban areas, to 47 percent of Americans in rural areas, and to only 37 percent of Americans living on Tribal lands.” *In re Restoring Internet Freedom*, 33 FCC Rcd 311, 573 (FCC January 4, 2018)

<sup>17</sup> 47 U.S.C. 214(e)(1).

<sup>18</sup> “[A] common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State Commission” may apply directly to the Commission for ETC status. *Twelfth Report and Order*, 15 FCC Rcd at 12265 (2000).

Commission directly without seeking designation from the state commission.<sup>19</sup> For the reasons stated below, it is clear that WRI is not subject to the jurisdiction of the State of Wyoming, nor, by extension, the Wyoming Public Service Commission. Once it has determined that it has jurisdiction over this Petition, the FCC is tasked with evaluating the merits of the ETC Petition.

The Commission has recognized that the legislative history of Section 214(e)(6) confirms that Congress sought to ensure that Tribally-owned carriers serving Tribal lands were covered and protected by this provision.<sup>20</sup> Additionally, the Commission has observed that the “determination of jurisdiction over a carrier serving tribal lands is an inquiry that will extend beyond questions of state law, and will be informed by principles of tribal sovereignty, federal law, and treaties.”<sup>21</sup> Therefore, this Petition first discusses relevant Tribal law and Treaties.

First, as discussed above, the Northern Arapaho Tribe of the Wind River Indian Reservation has never consented to state jurisdiction and, as a federally recognized Tribe, has always recognized its inherent direct legal relationship with the United States as that of one nation to another nation. Accordingly, WRI has not initiated an ETC designation proceeding with any state utility commission.

Second, federal treaties are the “supreme law of the land” of the U.S. federal

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<sup>19</sup> *Id.* ¶115. See also, *In the Matter of Telecommunications Carriers Eligible for Universal Serv. Support Standing Rock Telecommunications, Inc. Petition for Designation As an Eligible Telecommunications Carrier Petition of Standing Rock Telecommunications, Inc. to Redefine Rural Serv. Areas*, Memorandum Opinion and Order on Reconsideration, 26 FCC Rcd. 9160, 9161 (2011), *In the Matter of Telecommunications Carriers Eligible for Universal Serv. Support, Petitions for Designation as an Eligible Telecommunications Carrier For Purposes of Participation in Tribal Mobility Fund Phase I Second Amendment to Petition of NTUA Wireless, LLC for Designation as an Eligible Telecommunications Carrier for Lifeline Service and for Conditional ETC Status to Participate in Tribal Mobility Fund Phase I (Auction 902) on the Navajo Nation*, Order, 29 FCC Rcd. 1669, 1670 (2014)

<sup>20</sup> *Twelfth Report and Order*, 15 FCC Rcd at 12261.

<sup>21</sup> *Id.* ¶125.

government, as established by Article VI in the United States Constitution, a fact readily acknowledged by the Commission in the *Twelfth Report and Order*.<sup>22</sup> In The Fort Laramie Treaty of 1868 between the U.S. Government, the Northern Arapaho Tribe of the Wind River Reservation and other Tribes (“Treaty”), issues involving utilities and infrastructure (“works of utility or necessity”) were negotiated, and were intended to be negotiated in the future, directly between the Tribal government and the federal government.<sup>23</sup> In addition to the specific agreements outlined in the Treaty, future utility and infrastructure agreements are to be addressed by a commission of federal and tribal officials to “pay the tribe whatever amount of damage may be assessed” for access to utilities and rights of ways.<sup>24</sup> Therefore, under the Treaty, utility and infrastructure issues relating to the Northern Arapaho Tribe of the Wind River Indian Reservation and its Tribal lands are to be negotiated between the Tribe and the federal government, and are not “subject to the jurisdiction of a state.”<sup>25</sup>

Finally, the Commission's own precedent is very clear regarding Tribally-owned carriers serving Tribal lands. Tribally-owned carriers serving Tribal lands are eligible to apply to the Commission for designation as an ETC. The FCC has made this decision in each case in which a Tribally-owned carrier has applied to the FCC to have its ETC application considered, such as Hopi Telecommunications, Fort Mojave Telecommunications, Gila River Telecommunications, San Carlos Telecommunications, Tohono O’Odham Utility Authority, NTUA Wireless and Standing Rock Telecommunications.<sup>26</sup> In each case, the Tribal carrier’s ETC Petition was approved.

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<sup>22</sup> “[T]he determination of jurisdiction over a carrier serving tribal lands...will be informed by principles of tribal sovereignty, federal law, and treaties.” *Twelfth Report and Order*, 15 FCC Red at 12265.

<sup>23</sup> *The Treaty of Fort of Laramie of 1868*, 15 Stat. 635 (Apr. 29, 1868).

<sup>24</sup> *See also* 25 U.S.C. § 325.

<sup>25</sup> *Twelfth Report and Order*, 15 FCC Red at 12265.

<sup>26</sup> *In the Matter of Telecommunications Carriers Eligible for Universal Serv. Support Standing Rock Telecommunications, Inc. Petition for Designation As an Eligible Telecommunications Carrier Petition of Standing*



In summary, under the U.S. Constitution, the Treaty of Fort Laramie, the basic principles of federal Indian law, Section 214(e)(6) of the Communications Act of 1934, as amended, and established Commission precedent designating Tribally-owned carriers as ETCs, WRI, as a wholly-owned tribal carrier operating on tribal lands,<sup>27</sup> is not “subject to the jurisdiction” of the Wyoming Public Service Commission, and therefore, may apply directly to the FCC for a determination of its eligibility as an ETC.<sup>28</sup>

*B. WRI’s Qualifications Meet or Exceed the Requirements to be Designated as an ETC.*

As demonstrated below, WRI meets the requirements for designation as an ETC as established under Section 214(e)(6) and Commission rules.<sup>29</sup>

*1. WRI Will Provide Service as a Common Carrier.*

WRI will provide service on a common carrier basis. WRI currently provides fixed wireless voice services to approximately 600 end user customers, and broadband service to

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*Rock Telecommunications, Inc. to Redefine Rural Serv. Areas*, Memorandum Opinion and Order on Reconsideration, 26 FCC Rcd. 9160, 9161 (2011)(“*Standing Rock*”); *Designation of Hopi Telecommunications, Inc., as an Eligible Telecommunications Carrier for the Hopi Reservation*, Memorandum and Order, 22 FCC Rcd 1866 (2007) (“*Hopi*”); *Designation of Fort Mojave Telecommunications, Inc., Gila River Telecommunications, Inc. San Carlos Telecommunications, Inc., and Tohono o’Odham Utility Authority as Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act*, Memorandum Opinion and Order, 13 FCC Rcd 4547 (1998); *In the Matter of Telecommunications Carriers Eligible for Universal Serv. Support, Petitions for Designation as an Eligible Telecommunications Carrier For Purposes of Participation in Tribal Mobility Fund Phase I Second Amendment to Petition of NTUA Wireless, LLC for Designation as an Eligible Telecommunications Carrier for Lifeline Service and for Conditional ETC Status to Participate in Tribal Mobility Fund Phase I (Auction 902) on the Navajo Nation*, Order, 29 FCC Rcd. 1669, 1670 (2014), *In re Telecomms. Carriers Eligible for Universal Serv. Support*, 26 FCC Rcd 9160 (June 22, 2011).

<sup>27</sup> *Hopi Decision on ETC*, 22 FCC Rcd at 1870.

<sup>28</sup> Additionally, ETC designations are for a designated “service area,” which by statute “means a geographic area,” established by a state commission, (47 USC § 241(e)(5)), or, in the case of a carrier serving Tribal areas not subject to state jurisdiction, by a Tribal entity determining the tribal carrier’s service area, and approved by the Commission. Therefore, the Commission should grant ETC designation to WRI for WRI’s entire service area within the Reservation. The Commission has emphasized the principles of tribal sovereignty and independence in designating the service area of a Tribal carrier serving residents on a Reservation. See, *Standing Rock*, ¶¶ 14-15 applying and quoting *Twelfth Report And Order* (Commission, as part of its public interest analysis in designating an additional competitive wireless ETC and designating Standing Rock’s service area as the requested area within Reservation boundaries, concluded that its “fiduciary duty to conduct [itself] in matters affecting Indian tribes in a manner that protects the interest of the tribes” and to interpret “federal rules and policies...in a manner that comports with tribal sovereignty and the federal policy of empowering tribal independence.”)

<sup>29</sup> 47 CFR § 54.201(d).

approximately 800 customers in its current service area. WRI is in the first phase of deployment of its fiber network which will allow WRI to provide high speed/low latency FTTP broadband and voice services throughout its service area in the Wind River Indian Reservation. As such, WRI certifies that it is a common carrier under 47 U.S.C. §§ 214(e)(1) and 214(e)(6) for purposes of ETC designation.<sup>30</sup> WRI holds a Certificate of Public Convenience and Necessity to Provide Telecommunications Services within its approved service area within the Wind River Reservation issued by the Northern Arapaho Business Council of the Wind River Reservation.<sup>31</sup>

2. *WRI Offers the Services Supported by the Federal Universal Service Support Mechanisms.*

WRI certifies that it provides voice telephony service supported by federal universal service support mechanisms, including the following capabilities:

- (a) Voice Grade Access to the Public Switched Telephone Network or its functional equivalent<sup>32</sup> – WRI meets this requirement through its provision of fiber-based VoIP service that is interconnected to the public switched telephone network (“PSTN”). WRI offers and will offer this voice telephony service access as a stand-alone service at a rate comparable to similar service provided in urban areas. Similarly, WRI’s broadband service rates for its tiers of broadband service are reasonably comparable to those offered elsewhere in the State of Wyoming.<sup>33</sup>

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<sup>30</sup> 47 U.S.C. §§ 214(e)(1), 214(e)(6).

<sup>31</sup> ***Exhibit B.***

<sup>32</sup> *Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Inter-carrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform- Mobility Fund*; Report and Order and Further Notice of Proposed Rulemaking, at ¶ 78.

<sup>33</sup> *In re Connect Am. Fund*, 2011 FCC LEXIS 4859, \*99, 26 FCC Rcd 17663, 54 Comm. Reg. (P & F) 637 (FCC November 18, 2011); *see also* 47 CFR § 54.101(b). WRI is still determining the rates at which it will offer future voice and broadband services to eligible locations within the subject census block groups of its winning bids. However, WRI certifies that its superior Gigabit-level performance, low latency Fiber to the Premises broadband services will be marketed at reasonably comparable rates to similar broadband services offered in the State of Wyoming. Likewise, its voice telephony services to eligible locations within the census block will be offered at rates reasonably comparable to such services in urban rates.

This service includes minutes of use for local service provided at no charge to end users (specifically, plans are generally unlimited usage within the U.S.) and access to emergency services via 911 or E-911, wherever available from local government or public safety organizations. WRI also commits to provide toll limitation services to qualifying low-income consumers as provided in the Commission's Rules.<sup>34</sup>

(b) Broadband Internet Access Services – WRI's broadband Internet offering provides the capability to transmit data to and receive data by wire or radio from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service.<sup>35</sup>

WRI further commits to the provision of these services consistent with the Commission's high-cost universal support rules applicable to it.<sup>36</sup> WRI will also offer Lifeline service, as required by the Commission, in all locations where it has been awarded support.<sup>37</sup> Finally, WRI commits to bid on requests for support from the E-Rate program from schools and libraries located within WRI's service area.

### *3. WRI Provides Service Utilizing Its Own Facilities*

As discussed above, WRI currently provides fixed wireless service and is implementing a phased-in fiber network deployment of middle-mile and last-mile facilities to replace its fixed wireless facilities with Gigabit level FTTP services. WRI commits to expanding its FTTP facilities to provide the supported services to the underserved and unserved locations within the CAF Phase II census block groups of its winning bids, as identified by the Commission (*Exhibit*

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<sup>34</sup> 47 CFR § 54.101(a)(1).

<sup>35</sup> 47 CFR § 54.101(a)(2).

<sup>36</sup> 47 CFR § 54.101(c).

<sup>37</sup> 47 CFR § 54.101(d).

A). The expansion of the WRI owned facilities shall conform to the deployment timelines of CAF Phase II coverage requirements. WRI fully understands the deployment timelines of buildout to 40% of the required number of locations by the end of the third year of CAF funding, an additional 20% for each subsequent year, and 100% by the end of the sixth year of CAF Phase II support. Therefore, WRI meets the requirement that supported services be provided via WRI's own facilities.<sup>38</sup>

4. *WRI Will Provide Service Throughout Its Designated Service Area*

WRI commits to provide and offer the supported services as defined in Section 54.101 of the Commission's Rules throughout its designated service area, consistent with all applicable requirements. WRI's requested designated service area is within its approved exchange area contained within the boundaries of the Wind River Reservation. A map of WRI's designated service area is provided at *Exhibit A*.<sup>39</sup>

5. *WRI Will Advertise the Availability of Its Services and Charges Utilizing Media of General Distribution.*

WRI will advertise the availability of, and charges for, its supported service offerings, utilizing media of general distribution, and will undertake outreach initiatives to increase customer awareness of WRI's Lifeline service offering, consistent with all applicable requirements. WRI currently markets its voice and Internet services to its customers via its *website* to notify the public of the availability of its service offerings.<sup>40</sup> WRI also *markets* to its

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<sup>38</sup> 47 U.S.C. § 214(e)(1)(A); 47 CFR §54.201(d)(1).

<sup>39</sup> NATI was the winning bidder in the CAF II Auction for the following CGBs within the Wind River Reservation: 560139401001, 560139401002, 560139401003, 560139402021, 560139402022, 560139402023, 560139402024. *Connect America Fund Phase II Auction (Auction 903) Closes, Winning Bidders Announced, FCC Form 683 Due October 15, 2018*, Public Notice, Docket Nos. AU 17-182 and WC 10-90 (Rel. August 28, 2018), Attachment A at 7. In addition, because WRI will be providing service throughout its service area within the Wind River Reservation, WRI seeks to have its designated service area encompass all Tribal areas within its service area in the Wind River Indian Reservation.

<sup>40</sup> See, [www.windriverinternet.com](http://www.windriverinternet.com).

customers through advertising on local radio, *Riverton Ranger*, the local newspaper, and *County10*, a web and mobile-based media outlet providing the Fremont County, Wyoming community with news and updates.

6. *WRI Meets the Additional Requirements for Designation as an ETC.*

WRI further certifies that it meets all of the Commission's requirements for designation as an ETC under Section 214(e)(6).<sup>41</sup>

Compliance with Applicable Service Requirements. WRI certifies that it will comply with the service requirements applicable to the support it receives, including any requirements for the CAF Phase II.<sup>42</sup>

Ability To Remain Functional in Emergency Situations. WRI certifies that it has the ability to remain functional in emergency situations.<sup>43</sup> WRI's central office based power system is designed to adhere to the regulatory requirements of Section 54.202(a)(2). The 250-amp integrated power system equipped with hot swappable rectifiers ensures continuous operation of the telecom equipment during removal and installation of rectifiers during power system operation. For optimum reliability, the rectifiers have been designed and sized for N+1 redundancy.

The battery backup is designed to meet the DC load requirements to supply adequate reserve power for the telecom equipment during commercial AC failures and outages. The batteries consist of 190-amp hour Valve Regulated Lead Acid battery strings to maintain a minimum of eight (8) hours of battery reserve time.

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<sup>41</sup> 47 CFR § 54.202.

<sup>42</sup> 47 CFR § 54.202(a)(1)(ii).

<sup>43</sup> 47 CFR § 54.202(a)(1)(ii).

To address commercial power failure outages beyond 8-hour battery reserve time, WRI is utilizing a 35kW LP standby generator with auto transfer capabilities.

For optimum reliability on the core network, WRI has incorporated redundant power modules for the protection of the core network equipment and servers from power circuit and power component failures.

WRI is installing uninterruptible power supplies as backup power for the Optical Network Terminals at the subscriber premise to ensure that subscribers will maintain service during AC power outages.

To ensure that WRI can reroute inbound and outbound traffic around damaged facilities, WRI has established primary and secondary DIA service from two upstream providers. WRI also has in place wireless backhaul facilities capable of rerouting traffic within the proposed targeted service area.

WRI will implement quality of service (QoS) measures within the core and access networks to ensure that WRI can manage traffic spikes resulting from emergency situations,. The key metric in measuring QoS for VoIP traffic will be packet loss and latency. WRI will proactively monitor the network via a cloud-based service and review all individual subscriber usage in real-time in order for each subscriber to receive a targeted level of Quality of Service during periods of peak usage.

### **III. PUBLIC INTEREST STATEMENT**

Because the Commission has recognized that in the context of the Connect America Fund Phase II auction, bidders demonstrate their ability to meet their public interest obligations in their short-form and long-form applications, CAF Phase II winning bidders “need not provide

additional specific evidence of service to the public interest in their petitions for ETC designation.”<sup>44</sup> Similarly, the Commission has waived, on its own motion, the requirement that a winning bidder seeking ETC designation file a five-year improvement plan and demonstrate that it will satisfy appropriate consumer protection and service quality standards.<sup>45</sup> Nevertheless, WRI has successfully provided advanced services to underserved Tribal areas within the Wind River Indian Reservation since 2012 in accordance with consumer protection and service quality standards. WRI has demonstrated its commitment to expand voice and broadband services to Tribal residents within the Wind River Indian Reservation, illustrated by its service offerings over the past six years to Tribal residents, and thereby does satisfy the public interest requirements for ETC certification.

#### **IV. DRUG ABUSE ACT CERTIFICATION**

WRI certifies that no party to this Petition is subject to denial of federal benefits, including FCC benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988.

#### **V. CONCLUSION**

As discussed above, designating WRI as an ETC on the Wind River Indian Reservation for purposes of receiving USF support through the Connect America Fund, the Lifeline Fund, and other support, is consistent with the requirements of Section 214(e)(6) of the Act and is in the public interest. WRI respectfully requests that the Commission approve its ETC designation expeditiously so that CAF Phase II funding will flow as soon as possible to support a timely buildout of broadband infrastructure facilities to the census block groups within the Wind River Reservation for which WRI is the winning bidder.


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<sup>44</sup> *CAF ETC Public Notice* at 6.

<sup>45</sup> *Id.* at 4-5.

Respectfully submitted,

**NORTHERN ARAPAHO TRIBAL  
INDUSTRIES, INC. d/b/a WIND RIVER  
INTERNET**

By: 

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Its Counsel

September 26, 2018



**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of	)	
Telecommunications Carriers Eligible to Receive	)	
Universal Service Support	)	WC Docket No. 09-197
	)	
Petition Northern Arapaho Tribal Industries, Inc.	)	
d/b/a Wind River Internet for Designation as an	)	
Eligible Telecommunications Carrier Pursuant to	)	
Section 214(e)(6) of the Act.	)	

**DECLARATION OF ERNEST M. LAWSON**

I, Ernest M. Lawson, declare as follows:

1. I am over the age of 18, have personal knowledge of the matter set forth below, and am competent to be a witness herein. I submit this declaration in support of the Petition of Northern Arapaho Tribal Industries, Inc. d/b/a Wind River Internet for Designation as an Eligible Telecommunications Carrier (“ETC”) for Lifeline Service (“Petition”), filed herewith.

2. I am the Chief Executive Officer and Chairman of the Board of Directors of WRI. My business address is 98 Gas Hills Road, Riverton, WY 82501.

3. The purpose of my Declaration is to affirm the facts and certifications required, pursuant to 47 C.F.R. §§54.201-202 for WRI to obtain ETC designation.

4. I have reviewed the Petition of WRI, and to the best of my knowledge, the facts stated therein are true and correct.

5. I certify that WRI will provide Lifeline service to eligible customers, and bid on any E-rate project that is proposed within its service area.

6. WRI will provide voice-grade access to the public switched telephone network as part of its service package, which will allow customers to originate and terminate calls within a local calling area without incurring toll charges.

7. WRI will provide toll limitation services, as required by 47 C.F.R. 54.401(a)(2), if its package offerings to the extent that they distinguish between local and toll calls at the point of dialing.

8. WRI will provide access to emergency services that will allow its customers to deliver automatic numbering information and automatic location information over the WRI network to Public Safety Answering Points (PSAPs) that are capable of receiving and processing such information consistent with applicable state and federal E911 requirements.

9. WRI will be able to function in emergency situations as set forth in 47 C.F.R. § 54.202(a)(2). WRI's network will have a reasonable amount of back-up power to ensure functionality without an external power source. WRI is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations.

10. WRI will advertise the availability of, and charges for, its supported service offerings, utilizing media of general distribution, and will undertake outreach initiatives to increase customer awareness of WRI's Lifeline service offering, consistent with all applicable requirements.

11. I certify that FDLCI is familiar with, and will comply with, the minimum coverage requirements, build-out requirements and reporting obligations as stated in Part 54 of Chapter 47 of the Code of Federal Regulations.

12. WRI is financially and technically capable providing these telecommunications services, and, as a winning bidder in FCC Auction 903, WRI has demonstrated its ability to efficiently offer service.

13. Attached as Exhibit C is a Certificate of Good Standing from Northern Arapaho Tribe to operate on the Reservation.

14. Copies of WRI's Petition have been served upon the Parties listed on the Certificate of Service.

15. I certify, to the best of my knowledge, that no party to this Petition is subject to denial of federal benefits, including FCC benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988.

I declare under penalty of perjury that the foregoing is true and correct.

  
Ernest M. Lawson

Signed this 25<sup>th</sup> day of September, 2018 at Riverton, WY.

## Certificate of Service

I hereby certify that I, Katherine Barker Marshall, have caused the Petition of Northern Arapaho Tribal Industries, Inc. d/b/a Wind River Internet for Certification as an Eligible Telecommunications Carrier, Pursuant to Section 214(e)(6) of the Act served via overnight courier on September 26, 2018 to the following persons:

Mr. Lee Spoonhunter, Co-Chairman  
Northern Arapaho Business Council  
533 Ethete Rd # 8480  
Ethete, Wyoming 82520

Chairman Clint Wagon  
Eastern Shoshone Business Council  
#14 North Fork Road  
Fort Washakie, WY 82514

Mr. John Burbridge, Supervisor-Attorney  
Wyoming Public Service Commission  
Hansen Building  
25145 Warren Avenue, Suite 300  
Cheyenne, WY 82002

A handwritten signature in blue ink that reads "Katherine E. Barker Marshall". The signature is written in a cursive style and is positioned above a horizontal line.

Katherine Barker Marshall